

KCC 4776 (K-C 17,047)
PATENT

Remarks

The amendment presented above amends claims 25-38 and 50 of the subject application. Therefore, claims 25-52 will be pending upon entry of this amendment.

On January 28, 2004, Applicants' representative Kurt F. James and Examiner Nasser Ahmad had a scheduled telephone interview to discuss the patentability of claims 25 and 38 as presented herein. During the interview, Mr. James contended that claims 25 and 38 were patentable over the prior art, and in particular U.S. Patent No. 5,147,698 (Cole). No agreement was reached.

General Remarks

The present invention relates generally to feminine care products and more particularly to feminine care products having an absorbent body and a text message on an adhesive covering for motivating, entertaining, educating, or inspiring a women. The feminine care product of the presented invention is an article of manufacture directed generally to the well-being, health and fitness of women during menstruation. Women often experience sadness, irritability or other mood changes along with bleeding during menstruation. Some women experience emotional lows and may be in need of motivation, inspiration, or entertainment. In addition, there is a need to educate women about women's health issues and, more particularly, to women's health issues related to the menstrual cycle. Accordingly, the messages are intended to motivate, entertain, educate and/or inspire women during menstruation or to mitigate emotional lows attributable to menstruation.

Absorbent products such as panty liners and feminine napkins frequently include areas coated with adhesive materials for attaching the article to a crotch area of clothing to hold the

KCC 4776 (K-C 17,047)
PATENT

article in place adjacent a woman's pudendum during use. Frequently, a release liner or covering is removably attached to the adhesive coating to cover the coating and to prevent attachment of the article before the user removes the release liner from the adhesive coating. The covering is removed from the napkin and the napkin is then applied to underwear. Thus, the user comes in physical contact with the covering desirably drawing the user's attention to the message. As a result, the placement of a message specifically to educate, motivate, inspire or entertain women during menstruation on a covering attached to an absorbent body for adsorbing body fluids discharged during menstruation provides a novel approach to feminine care by addressing both the physical and emotional needs of a women associated with menstruation.

Basis for Claim Amendments

Applicants respectfully request that the Examiner enter the presented amended claim set. Applicants believe that entering the amended claims is proper because no new matter has been added by any of the amendments and the amendments place the claims in better form for appeal. As a result, no additional searching or consideration is necessary. As noted below in more detail, the amendments were made to further define applicants' claimed invention and to distinguish the claimed invention from Cole.

Claims 25-37 have been amended by replacing "laminated structure" with "feminine care product." Support for this amendment can be found in the present application throughout the Detailed Description of the Preferred Embodiments, including page 3, lines 27-34 and Figs. 1 and 2.

Claim 25 has been further amended by replacing "indicia" with "text" and adding "wherein said text is unrelated to instructing

KCC 4776 (K-C 17,047)
PATENT

use of the feminine care product or designating a source of the feminine care product". Support for these amendments can be found in the present application at page 5, line 24 through page 6, line 4.

Claim 38 has been amended by adding "for addressing both the physical and emotional needs of a women during menstruation" to the preamble and "for mitigating the emotional lows some women experience during menstruation" to the body of the claim. In addition, the recitation "related to at least one of motivating the user, entertaining the user, educating the user, and inspiring the user" was deleted. Support for this amendment can be found in the present application at page 1, lines 24-27.

Claims 38 and 50 been further amended by replacing "indicia direct to" and "indicia", respectively, with "text." As mentioned above with respect to claim 25, support for these amendments can be found in the present application at page 5, line 24 through page 6, line 4.

Applicants respectfully request the Examiner enter the presented amended claim set.

Response to Rejection of Claims

CLAIM 25

Claim 25 is directed to a feminine care product comprising:

- (a) a body having a peripheral edge, a first side, and a second side opposite said first side;
- (b) an adhesive coating applied to said first side of the body permitting a user to attach said body to a preselected surface; and
- (c) a covering removably attached to the adhesive coating to prevent attachment of the body before the user removes the covering from the adhesive coating, said covering having a size

KCC 4776 (K-C 17,047)
PATENT

and shape selected for covering at least a portion of the adhesive coating when attached to the adhesive coating, a release side for contacting the adhesive coating when the covering is attached to the coating, and a message side opposite said release side;

(d) wherein said message side of the covering includes text directed to communicating a message to the user related to at least one of motivating the user, entertaining the user, educating the user, and inspiring the user, wherein said text is unrelated to instructing use of the feminine care product or designating a source of the feminine care product.

Claim 25 is submitted to be patentable over the references of record, and in particular, non-obvious in light of the combination of U.S. Patent No. 5,429,630 (Beal) and Cole. The references fail to show or suggest a feminine care product having an absorbent body and a text message directed to communicating a message to the user related to at least one of motivating the user, entertaining the user, educating the user, and inspiring the user, wherein said text is unrelated to instructing use of the feminine care product or designating a source of the feminine care product.

Beal discloses a feminine care product but does not disclose an adhesive covering containing a message. Accordingly, Beal is not pertinent to the distinction that applicants submit make the present invention patentable.

Cole discloses a bandage for the moist healing of wounds. The bandage comprises a two faced adhesive film covered on one face by a releasable liner and a backing on the other. (Cole, col. 7 ll. 38-42). The liner allows the adhesive film to be selectively used by preventing the adhesive from sticking

KCC 4776 (K-C 17,047)
PATENT

prematurely to an undesirable article. The backing permanently attaches to the back face of the adhesive film. (Cole, col. 7 ll. 42-44). In addition, Cole discloses the placement of a logo, a decorative design or instructions for use of the product on either the backing or the releasable liner. (Cole, col. 7 ll. 8-11.)

Cole also fails to disclose a product having an absorbent body and a text message directed to both the physical and emotional needs of the user as claimed by the applicants. Applicants claimed invention, a feminine care product, comprises an absorbent article for adsorbing body fluids discharged during menstruation and a text message related to at least one of motivating the user, entertaining the user, educating the user, and inspiring the user thereby addressing the emotional needs of a woman during menstruation. Cole only addresses the users physical needs (i.e. a wound).

It is the Examiner position that the subject matter of the text cannot be used to distinguish over the prior art. Applicants respectfully disagree because printed matter, in an article of manufacture claim, can be given "patentable weight" so long as the printed matter has a functional relationship with the article In re Miller, 418 F.2d 1392, 1396 (Fed. Cir. 1969). See also, In re Royka, 490 F.2d 981, 985 (1973) (stating that printed matter may constitute a structural limitation upon which patentability can be predicated).

Claim 25 is similar to the claims in In re Miller because the text is functionally related to the feminine care product. In In re Miller, the claims before the court were directed to measuring cups and spoons having indicia, a legend and "false" volumetric units, for measuring recipe ingredients in proportions different from those presented in a cookbook. The legend provided the

KCC 4776 (K-C 17,047)
PATENT

ratio between the "false" volumetric units and the true volumetric unit. For example, if the legend was "One Half Recipe", the "false" volumetric unit presented on the measuring device would really be one-half of the indicated value (i.e. 2 cups would really be 1 cup). Thus, the measuring device provided a unique means of performing mathematical conversion necessary when one is making a serving different from the one presented in the cookbook. Please note that the court recognized measuring cups and spoons marked with measurement indicia as being well known. The Court in finding that the examiner improperly held the claims to be unpatentable, stated "here there is a new and unobvious functional relationship between the measuring receptacle, volumetric indicia thereon indicating volume in a certain ratio to actual volume, and a legend indicating the ratio." *Id.* Similarly, the claimed article comprising an absorbent body and a text message provides a new and unobvious functional relationship for addressing the physical and emotional well-being of women during menstruation. Along with the bleeding experienced during menstruation, women commonly experience irritability or other mood changes. The article, as claimed, is directed to both. The absorbent body is provided to absorb the released body fluids and the text is provided to address the emotional fluctuations a women experiences during their menstruation. As such, the text is functionally related to the claimed feminine care product and should be given proper patentable weight.

Because Cole and Beal fail to show or suggest each and every element of the claimed invention and the subject matter of the text is entitled to patentable weight since it is functionally related to the claimed feminine care product, claim 25 is

KCC 4776 (K-C 17,047)
PATENT

submitted as patentable over the references of record and in particular Beal and Cole.

Claims 26-37 depend directly or indirectly from claim 25 and are submitted as patentable for the same reasons.

CLAIM 38

Amended claim 38 is directed to a feminine care product for addressing both the physical and emotional needs of a women during menstruation comprising:

(a) an absorbent body for adsorbing body fluids discharged during menstruation, the absorbent body having a peripheral edge, a first side, and a second side opposite said first side;

(b) an adhesive coating applied to said first side of the body permitting a user to attach said body to a preselected surface; and

(c) a covering removably attached to the adhesive coating to prevent attachment of the body before the user removes the covering from the adhesive coating, said covering having a size and shape selected for covering at least a portion of the adhesive coating when attached to the adhesive coating, a release side for contacting the adhesive coating when the covering is attached to the coating, and a message side opposite said release side;

(d) wherein said message side of the covering includes text communicating a message to the user for mitigating the emotional lows some women experience during menstruation.

Claim 38 is also submitted as patentable over the references of record, and in particular, non-obvious in light of the combination of Beal and Cole. As discussed in connection with claim 25, neither Beal nor Cole shows or suggests a feminine care

KCC 4776 (K-C 17,047)
PATENT

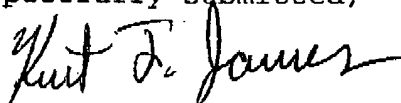
product having a removable covering containing a text message for mitigating the emotional lows of the user during menstruation. Applicants submits claim 38 as patentable over Beal and Cole for the reasons stated above. Claims 39-52 depend directly or indirectly from claim 38 and are submitted to be patentable over the references of record for the same reasons as claim 38.

KCC 4776 (K-C 17,047)
PATENT

Conclusion

In view of the foregoing, reconsideration and allowance of
claims 25-52 is respectfully requested.

Respectfully submitted,



Kurt F. James, Reg. No. 33,716
SENNIGER, POWERS, LEAVITT & ROEDEL
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400

KFJ/PEB/mlw